

JOINT LEGISLATIVE OVERSIGHT COMMITTEE  
ON UNEMPLOYMENT INSURANCE

October 2, 2013

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**S.L. 2012-134 (SB 828)**  
**Focus: Program Integrity**

- **Federal Law – Trade Adjustment Assistance**

- U.S. Department of Labor identified three primary causes of improper payments:
  - A gap in employment service registration.
  - Claimants continuing to claim benefits after returning to work.
  - Untimely and inadequate separation information from employers and third party administrators.

- **State Law – S.L. 2011-401 (SB 532)**

- Made various changes to N.C.'s unemployment insurance law.

- **S.L. 2012-134 (SB 828). Enacted for several stated purposes:**

- Purpose: To address certain USDOL concerns with S.L. 2011-401 (SB 532). USDOL required the State to:
  - Pay UC with the greatest promptness administratively feasible.
  - Change its definition of "misconduct connected with the work."
  - Change certain provisions regarding stipulations in unemployment hearings.
- Purpose: To include the statutory changes N.C. had to make to be in conformity with key program integrity provisions recommended by the USDOL, that were enacted as part of the Trade Adjustment Assistance Extension Act of 2011 ("TAA").
  - New Hire Directory. Strengthens N.C.'s new hire database by allowing DES to cross-match the child support enforcement database.
  - Prohibition on Non-Charging of Employer Accounts. To address the untimely and insufficient separation information provided by employers and third party administrators, the federal law required

states to enact a provision prohibiting the noncharging of an employer's UI account when an improper payment is made because of the employer's failure to respond *timely or adequately* to the agency.

- Monetary Penalty Assessment. To address claimants who fraudulently continue to collect unemployment benefits after returning to work, federal law requires states to impose a penalty on the claimant equal to 15% of the amount of the erroneous overpayment if the agency determines that the overpayment is due to fraud. The money collected from the penalty is payable to the state unemployment trust fund, and its use is limited to the payment of unemployment benefits. The State can recover the penalty by any means other than by offsets of future benefits.
- Purpose: To enhance unemployment compensation fraud detection and recovery, as recommended by the House Unemployment Task Force.
- Overpayments – Considered overpayments and fraudulent overpayments..
  - ❖ An *overpayment* may occur when funds go to an incorrect recipient; when the correct recipient receives an incorrect amount; when appropriate documentation is not available to support a UI claim.
  - ❖ An overpayment caused by fraud occurs when a claimant makes a false statement or representation *knowing* it to be false, or *knowingly* fails to disclose a material fact to obtain or increase a UI benefit.
- Recovery of overpayments -- Made changes to enhance DES's ability to recover overpayments:
  - ❖ Made it a Class I felony to wrongfully obtain or increase an unemployment benefit if the amount wrongfully obtained exceeds \$400.
  - ❖ Eliminated the 3-year and 10-year statute of limitations for recovering an overpayment.
- **Other Program Integrity Tools addressed in S.L. 2012-134 (SB 828).**
  - TOP. The Treasury Offset Program (TOP) is a centralized offset program administered by the U.S. Department of the Treasury, Bureau of the Fiscal Service, to collect delinquent debts owed to federal agencies and states. In partnership with the U.S. Department of Labor, TOP-UIC offsets federal

tax refund payments to payees who owe delinquent unemployment insurance compensation debts due to fraud or a person's failure to report earnings. [http://www.fms.treas.gov/debt/top\\_uic.html](http://www.fms.treas.gov/debt/top_uic.html)

- NC FACTS. NC FACTS, the North Carolina Financial Accountability and Compliance Technology System, is a program designed to identify fraud, waste, and improper payments across State agencies and to prioritize investigations. S.L. 2012-134 (§828) made the necessary changes to enable DES to participate in NC FACTS by insuring that any disclosure made must conform to the confidentiality requirements of federal law. The changes became effective when signed into law on June 29, 2012.

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